

### **REMARKS/ARGUMENTS**

This amendment is submitted in response to the Office Action dated April 22, 2004. After entry of this amendment, claims 1-14, 16-18, 20-23 and 25-35 will continue to be pending in the application. Reconsideration and allowance is respectfully requested in view of the remarks made below.

#### ***1. The §112 Second Paragraph Rejections***

Claims 22-23 were rejected in the Office Action under 35 USC §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. The text of the rejection stated that “said teether element” lacked antecedent basis.

Applicant has amended claim 22 to correct the problem. Reconsideration and withdrawal of the Section 112 rejection is respectfully requested.

#### ***2. The Prior Art Rejections***

Claims 1-8, 11-14, 16-18, 20-32 and 35 were rejected under Section 102(e) based on U.S. Patent 6,061,943 to Pepys (“Pepys”). Additionally, claims 9, 10, 33 and 34 were rejected under Section 103 based on a proposed combination of Pepys and U.S. Patent 4,280,241 to Pfaff (“Pfaff”). Applicant respectfully but strenuously traverses these rejections and respectfully submits that such rejections should not be applied to the claims as amended, for the reasons set forth below.

The invention involves a teething toy that is designed to develop in a child a familiarity with books while at the same time safely providing the child with teething relief. In the preferred embodiment, the invention includes a book-like structure that has a plurality of leaves, and at least one teething element. In one aspect of the invention that Applicant is claiming in independent claim 1, the teething element is attached to at least one of the leaves and is fabricated from a non-toxic material. The teething element is also sized and dimensioned to be comfortably inserted into an infant's mouth for teething, and further has no sharp edges capable

of injuring an infant, so that it will be safe for an infant or small child to place his or her mouth on said teething element.

In another aspect of the invention that Applicant is claiming in independent claim 14, binding structure is provided in order to bind the leaves together as a book. In addition, gripping structure (which is configured to include the teething element) is provided near an outer edge of at least one of the leaves for providing enhanced grippability to the leaf. By combining the functions of gripping structure and the teething element the invention permits a small child to be able to both teethe and easily turn the leaves of book-like structure like a book.

In another aspect of the invention that Applicant is claiming in independent claim 18, the teething element is embodied within leaf weight structure that provides enhanced weight to the outer edge area of at least one of the leaves of the book like structure. As a result, the book-like article may function as a teether and be discouraged from closing when it is laid open in a given position.

In yet another aspect of the invention that Applicant is claiming in independent claim 26, the leaves are fabricated from a material that includes cloth.

All of Applicant's independent claims specify that the teether element (or gripping structure or leaf weight means) is fabricated from a resilient, elastomeric material.

The Pepys reference discloses a photo album for an infant that has a flexible front cover, a flexible back cover and a plurality of flexible pages that are disposed between the front and back covers. Each of the pages 16 is provided with a soft fabric seam 24 that extends around the sides of the page 16 except where the page 16 is attached to the spine 13 of the album. The fabric seam 24 is disclosed to provide a slight thickness to the edge of the page 16 and is soft in order to reduce injuries such as small cuts as the page is grasped.

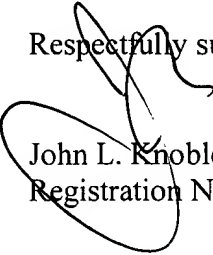
A similar fabric seam 22 is provided on the covers 12, 14 and is disclosed to reduce the chance of injury to the infant or a child if the album is thrown or is placed into the child's mouth. There is no disclosure whatsoever in this reference that the soft fabric seam 22 that is connected to the covers 12, 14 has any utility whatsoever as a teether element. Instead, it merely discloses that it provides some protection (e.g. against paper cuts) that might otherwise occur in the child's mouth if the child inserts the sharp edge of the cover into his or her mouth.

There is further no disclosure that the fabric seam 24, which is the seam that is actually attached to the flexible pages 16, is intended to be placed within the mouth of a small child at all. Clearly, there is no disclosure in this reference of any element that could reasonably be considered a teether element. Teether elements require some rigidity, which would not be provided by the soft, fabric material of either of the seams 22, 24. Most significantly, there is no disclosure or suggestion in this reference or any of the other references a record that would lead a person having ordinary skill in this area of technology to modify the soft, fabric seam 22 or the fabric seam 24 in order to arrive at the resilient elastomeric material that is specified in Applicant's claims. For all of these reasons, Applicant respectfully submits that the rejections based upon Pepys are fatally flawed, and should be withdrawn upon reconsideration by the Examiner.

**3. Conclusion**

Applicant has made an earnest effort to place this application in condition for allowance. If the Examiner feels that a telephone interview would expedite prosecution of this patent application, he is respectfully invited to telephone the undersigned at 215-599-0600.

Respectfully submitted,

  
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